

**62A-15-401 Alcohol training and education seminar.**

(1) As used in this part:

- (a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider.
- (b) "Licensee" means a person who is:
  - (i)
    - (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act; and
    - (B) engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee; or
  - (ii) a business that is:
    - (A) a new or renewing licensee licensed by a city, town, or county; and
    - (B) engaged in the retail sale of beer for consumption off the premises of the licensee.
- (c) "Off-premise beer retailer" is as defined in Section 32B-1-102.
- (d) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.

(2)

- (a) This section applies to an individual who, as defined by the division by rule:
  - (i) manages operations at the premises of a licensee engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee;
  - (ii) supervises the serving of an alcoholic product to a customer for consumption on the premises of a licensee;
  - (iii) serves an alcoholic product to a customer for consumption on the premises of a licensee;
  - (iv) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or
  - (v) sells beer to a customer for consumption off the premises of an off-premise beer retailer.
- (b) If the individual does not have a valid record that the individual has completed an alcohol training and education seminar, an individual described in Subsection (2)(a) shall:
  - (i)
    - (A) complete an alcohol training and education seminar within 30 days of the following if the individual is described in Subsections (2)(a)(i) through (iii):
      - (I) if the individual is an employee, the day the individual begins employment;
      - (II) if the individual is an independent contractor, the day the individual is first hired; or
      - (III) if the individual holds an ownership interest in the licensee, the day that the individual first engages in an activity that would result in that individual being required to complete an alcohol training and education seminar; or
    - (B) complete an alcohol training and education seminar within the time periods specified in Subsection 32B-5-404(1) if the individual is described in Subsections (2)(a)(iv) and (v); and
  - (ii) pay a fee:
    - (A) to the seminar provider; and
    - (B) that is equal to or greater than the amount established under Subsection (4)(h).
- (c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2) to engage in an activity described in Subsection (2)(a).
- (d) A record that an individual has completed an alcohol training and education seminar is valid for:
  - (i) three years from the day on which the record is issued for an individual described in Subsection (2)(a)(i), (ii), or (iii); and

- (ii) five years from the day on which the record is issued for an individual described in Subsection (2)(a)(iv) or (v).
- (e) On and after July 1, 2011, to be considered as having completed an alcohol training and education seminar, an individual shall:
  - (i) attend the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar in the physical presence of an instructor of the seminar provider; or
  - (ii) complete the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).
- (f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program. In developing the requirements by rule the division shall consider whether to require:
  - (i) authentication that the an individual accurately identifies the individual as taking the online course or test;
  - (ii) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;
  - (iii) measures to track the actual time an individual taking the online course or test is actively engaged online;
  - (iv) a seminar provider to provide technical support, such as requiring a telephone number, email, or other method of communication that allows an individual taking the online course or test to receive assistance if the individual is unable to participate online because of technical difficulties;
  - (v) a test to meet quality standards, including randomization of test questions and maximum time limits to take a test;
  - (vi) a seminar provider to have a system to reduce fraud as to who completes an online course or test, such as requiring a distinct online certificate with information printed on the certificate that identifies the person taking the online course or test, or requiring measures to inhibit duplication of a certificate;
  - (vii) measures for the division to audit online courses or tests;
  - (viii) measures to allow an individual taking an online course or test to provide an evaluation of the online course or test;
  - (ix) a seminar provider to track the Internet protocol address or similar electronic location of an individual who takes an online course or test;
  - (x) an individual who takes an online course or test to use an e-signature; or
  - (xi) a seminar provider to invalidate a certificate if the seminar provider learns that the certificate does not accurately reflect the individual who took the online course or test.
- (3)
  - (a) A licensee may not permit an individual who is not in compliance with Subsection (2) to:
    - (i) serve or supervise the serving of an alcoholic product to a customer for consumption on the premises of the licensee;
    - (ii) engage in any activity that would constitute managing operations at the premises of a licensee that engages in the retail sale of an alcoholic product for consumption on the premises of the licensee;
    - (iii) directly supervise the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

- (iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.
  - (b) A licensee that violates Subsection (3)(a) is subject to Section 32B-5-403.
- (4) The division shall:
  - (a)
    - (i) provide alcohol training and education seminars; or
    - (ii) certify one or more seminar providers;
  - (b) establish the curriculum for an alcohol training and education seminar that includes the following subjects:
    - (i)
      - (A) alcohol as a drug; and
      - (B) alcohol's effect on the body and behavior;
    - (ii) recognizing the problem drinker or signs of intoxication;
    - (iii) an overview of state alcohol laws related to responsible beverage sale or service, as determined in consultation with the Department of Alcoholic Beverage Control;
    - (iv) dealing with the problem customer, including ways to terminate sale or service; and
    - (v) for those supervising or engaging in the retail sale of an alcoholic product for consumption on the premises of a licensee, alternative means of transportation to get the customer safely home;
  - (c) recertify each seminar provider every three years;
  - (d) monitor compliance with the curriculum described in Subsection (4)(b);
  - (e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;
  - (f) provide the information described in Subsection (4)(e) on request to:
    - (i) the Department of Alcoholic Beverage Control;
    - (ii) law enforcement; or
    - (iii) a person licensed by the state or a local government to sell an alcoholic product;
  - (g) provide the Department of Alcoholic Beverage Control on request a list of any seminar provider certified by the division; and
  - (h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.
- (5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
  - (a) define what constitutes under this section an individual who:
    - (i) manages operations at the premises of a licensee engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee;
    - (ii) supervises the serving of an alcoholic product to a customer for consumption on the premises of a licensee;
    - (iii) serves an alcoholic product to a customer for consumption on the premises of a licensee;
    - (iv) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or
    - (v) sells beer to a customer for consumption off the premises of an off-premise beer retailer;
  - (b) establish criteria for certifying and recertifying a seminar provider; and
  - (c) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.
- (6) A seminar provider shall:
  - (a) obtain recertification by the division every three years;
  - (b) ensure that an instructor used by the seminar provider:
    - (i) follows the curriculum established under this section; and

- (ii) conducts an alcohol training and education seminar in accordance with the guidelines established by rule;
  - (c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:
    - (i) the curriculum established under this section; and
    - (ii) this section;
  - (d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;
  - (e)
    - (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and
    - (ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and
  - (f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.
- (7)
- (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:
    - (i) suspend the certification of the seminar provider for a period not to exceed 90 days;
    - (ii) revoke the certification of the seminar provider;
    - (iii) require the seminar provider to take corrective action regarding an instructor; or
    - (iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).
  - (b) The division may certify a seminar provider whose certification is revoked:
    - (i) no sooner than 90 days from the date the certification is revoked; and
    - (ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.

Amended by Chapter 334, 2011 General Session